



June 13, 2022

VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Request of Dominion Energy South Carolina, Inc. to Transfer Real
Property to the State of South Carolina and Obtain Certain Waivers
Associated with Real Property Transfers
Docket No. 2022-____-E

Dear Ms. Boyd:

The purpose of this letter is to request Public Service Commission of South Carolina ("Commission") approval of the transfers of certain real property by Dominion Energy South Carolina, Inc. ("DESC" or "Company") to the State of South Carolina and to obtain waivers of the required competitive bidding process for those transfers as more fully described below. The contemplated transfers have already been approved by the South Carolina Joint Bond Review Committee and the South Carolina State Fiscal Accountability Authority.

Background

On May 31, 2018, the South Carolina Department of Revenue ("SCDOR") issued a proposed assessment to DESC for the period beginning September 1, 2008, and ending December 31, 2017 (the "Audit Period"), relating to sales and use tax arising from purchases of tangible personal property using Direct Pay Exemption Certificates issued to DESC in connection with the construction of two AP1000 Nuclear Units located at the V.C. Summer Nuclear Station in Jenkinsville, South Carolina. The SCDOR determined that the tangible personal property purchased during the Audit Period using DESC's Direct Pay Exemption Certificate was not exempt from sales and use tax under S.C. Code Ann. § 12-36-2120(17) and (67) because South Carolina Electric & Gas Company (now DESC) had abandoned construction of the units. DESC requested judicial review of the SCDOR determination which resulted in litigation captioned *SCE&G (now Dominion Energy South Carolina, Inc.) v. South Carolina Department of Revenue*, Docket No. 19-ALJ-17-0170-CC in the South Carolina Administrative Law Court ("Tax Litigation").

DESC and SCDOR entered an Amended and Restated Settlement Agreement, dated August 5, 2021, to resolve all aspects of the Tax Litigation. As part of the Settlement Agreement, DESC agreed to pay the SCDOR \$165,000,000 (“Settlement Amount”), which may be funded in part by real property upon mutual agreement of DESC and SCDOR. By Supplemental Memorandum, dated June 9, 2022, (“Supplemental Memorandum”), a copy of which is attached hereto as Exhibit A, and in satisfaction of a portion of the Settlement Amount (the partial amounts as indicated below by the Settlement Value), DESC and SCDOR agreed that DESC would transfer the following properties to SCDOR, or other State Agency as designated by SCDOR, subject to the requisite approvals by Commission:

1. The Misty Lake and Franklin Branch Properties, consisting of approximately 190 acres of land located along the south side of Interstate 20 and the north side of Ascauga Lake Road in Aiken County, TMS Nos. 021-18-01-001, 021-18-01-002, 021-14-05-002. Settlement Value of \$2,481,000.
2. The Pine Island Property, consisting of approximately 27.13 acres of land located at the south end of Pine Island Road off the north shore of Lake Murray in Lexington County, TMS No. 002696-05-006. Settlement Value of \$9,500,000.
3. The Bundrick Island Property, consisting of approximately 94 acres of land located at the north end of Brady Porth Road off of the south shore of Lake Murray in Lexington County. Settlement Value of \$10,620,500.
4. The Ramsey Grove Property, consisting of approximately 2,631.74 acres of land located about 6 miles north of Georgetown in Georgetown County, TMS Nos. 02-1006-014-00-00, 02-0205-052-00-00, 02-1006-013-00-00, 02-0205-012-00-00, 02-1006-012-00-00, 02-1005-002-03-00, 02-1006-007-04-00, 02-1006-007-03-00, 02-1006-013-01-00, 02-1006-013-03-00, 02-1006-007-02-00. Settlement Value of \$28,129,906.25.

In December 2021, the South Carolina Joint Bond Review Committee and the South Carolina State Fiscal Accountability Authority each approved the above real-property transfers at the settlement values listed above.

Property Transfer-Related Requests

South Carolina Code Ann. § 58-27-1300 (2015) requires DESC to obtain approval from the Commission when the Company seeks to “sell, assign, transfer, lease, consolidate, or merge its utility property¹” that has a fair market value in

¹ South Carolina Code Ann. § 58-27-1300 provides that “utility property” includes “property used and useful to provide customers with electric service and which has been properly included in the electric utility's rate base, including

excess of \$1,000,000. Additionally, pursuant to Order No. 2021-358, dated May 14, 2021, issued in Docket No. 2019-386-E, the Commission approved a Code of Conduct Governing the Relationship among Dominion Energy South Carolina, Inc., SCANA Corporation, Dominion Energy, Inc. and Certain Other Affiliates (“Code of Conduct”). The Code of Conduct contains certain reporting requirements for real property transactions. Among the requirements, the Code of Conduct requires DESC to engage in a competitive bidding process for sales of real property with an appraised value in excess of \$1,000,000 (“Bid Requirement”).² For the reasons stated herein, the Company, pursuant to § 58-27-1300, respectfully requests that the Commission issue an order authorizing DESC to transfer, in furtherance of satisfying the Settlement Amount, the real property described herein and to waive the Bid Requirement established by the Code of Conduct.

A. Utility Property in Excess of \$1,000,000

i. Misty Lake/Franklin Branch Property

DESC owns approximately 190 acres of real property in Aiken County, which is collectively referred to as the “Misty Lake/Franklin Branch Property.” The Property is improved with a one-story recreational club house of approximately 6,200 sq ft, a small lake, docks, gazebos, and multiple covered picnic areas. The Misty Lake/Franklin Branch Property has an appraised value of \$2,481,000 as determined by a state certified independent appraiser and is classified on the Company’s books and records as “utility property.” Accordingly, this property is subject to the requirements of S.C. Code Ann. § 58-27-1300 and DESC must therefore obtain Commission approval before selling or transferring the property. A map depicting the Misty Lake/Franklin Branch Property is attached hereto as Exhibit B.

ii. Pine Island Property

DESC owns approximately 27.13 acres of real property in Lexington County, which is collectively referred to as the “Pine Island Property.” The Pine Island Property includes a swimming pool, caretakers house, many picnic shelters, boat docks, and a club house of approximately 9,072 sq ft. The SCDOR provided an appraisal with the Pine Island Property having a fair market value of \$6,069,000, and DESC obtained an appraisal with the property having a fair market value of

construction work in progress or property held to serve future customers.” This section further provides that “[u]tility property that has been transferred to nonutility accounts must continue to be treated as utility property under this provision for five years following the transfer.”

² See Code of Conduct, Paragraphs III(C)(3)(b); IV(C)(1),(2)(a).

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\$9,500,000. Both fair market values were determined by a state certified independent appraiser. The Pine Island Property is classified on the Company's books and records as "utility property." Accordingly, this property is subject to the requirements of S.C. Code Ann. § 58-27-1300 and DESC must therefore obtain Commission approval before selling or transferring the property. A map depicting the Pine Island Property is attached hereto as Exhibit C.

iii. Bundrick Island Property

DESC owns approximately 94 acres of real property on Lake Murray in Lexington County, which is collectively referred to as the "Bundrick Island Property." The property is unimproved except for a dirt road that provides access to a site utilized by the South Carolina Department of Natural Resources for law enforcement on Lake Murray. The SCDOR provided an appraisal with Bundrick Island having a fair market value of \$2,441,000, and DESC obtained an appraisal with the property having a fair market value of \$18,800,000. Both fair market values were determined by a state certified independent appraiser. The Bundrick Island Property is classified on the Company's books and records as "utility property." Accordingly, this property is subject to the requirements of S.C. Code Ann. § 58-27-1300 and DESC must therefore obtain Commission approval before selling or transferring the property. A map depicting the Bundrick Island Property is attached hereto as Exhibit D.

B. Non-Utility Property in Excess of \$1,000,000 but Subject to Bid Requirement

i. The Ramsey Grove Property

DESC owns approximately 2,631.74 acres of real property in Georgetown County, which is collectively referred to as the "Ramsey Grove Property." The Ramsey Grove Property is improved with various sheds, a caretaker's cottage (2,273 sq. ft.), a clubhouse (2,470 sq. ft.), conference center (1,600 sq. ft.) and office (840 sq. ft.), bunkhouse (1,200 sq. ft.), and various other improvements for recreational and maintenance purposes. The Ramsey Grove Property has an appraised value of \$13,400,000 as determined by a state certified independent appraiser, but Ramsey Grove Property is not classified as "utility property" and has not been used as "utility property" within the last five years. Accordingly, the Ramsey Grove Property is not subject to the approval requirements of S.C. Code Ann. § 58-27-1300, but it is subject to the Bid Requirement. A map depicting the Ramsey Grove Property is attached hereto as Exhibit E.

Request for Authorization to Transfer the Pine Island, Misty Lake/Franklin Branch, and Bundrick Island Properties

As discussed above, DESC, pursuant to S.C. Code Ann. § 58-27-1300, is prohibited from selling or transferring utility property valued in excess of \$1,000,000 without obtaining Commission approval. In this instance, the Misty Lake/Franklin Branch, Pine Island, and Bundrick Island Properties are each valued in excess of \$1,000,000, and the Company wishes to transfer these properties to satisfy a portion of the Settlement Amount. Based upon the foregoing, DESC respectfully requests that the Commission issue an order authorizing DESC to transfer the Misty Lake/Franklin Branch, Pine Island and Bundrick Island Properties to the SCDOR.

Request for Waiver of Bid Requirement

In the Code of Conduct, the Commission articulated a requirement that, if DESC seeks to sell utility real property in excess of \$1,000,000, the Company must engage in a competitive bid process.³ The purpose and intent of the Code of Conduct is to protect against affiliate preferences and to ensure that the Company disposes of real property in a manner that promotes fair and equitable treatment of the parties to the transaction, potential bidders, and DESC's customers.

In the present case, DESC has no future plans for the Misty Lake/Franklin Branch, Pine Island, Bundrick Island, or Ramsey Grove Properties (collectively, the "Settlement Properties"). DESC understands that the State of South Carolina intends to use and manage the Settlement Properties for the benefit of the public. Moreover, the Settlement Properties will be transferred at not less than the appraised value as determined by a state certified independent appraiser who provided the appraisal to the SCDOR. Furthermore, the SCDOR is independent of DESC. Based on the foregoing, the transfer of the Settlement Properties in the manner described herein encompasses the fair and equitable considerations prescribed in the Code of Conduct. Accordingly, DESC respectfully requests that the Commission issue an order authorizing the Company to transfer the Settlement Properties without engaging in the competitive bid process described in the Code of Conduct.

By copy of this letter, we also are notifying counsel for the South Carolina Office of Regulatory Staff of this request. If you have any questions or if you need any additional information, please do not hesitate to contact me.

³ See Code of Conduct, Paragraphs III(C)(3)(b); IV(C)(1),(2)(a).

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Sincerely,



Matthew W. Gissendanner

MWG/kms

cc: Andrew Bateman, Esquire
(via electronic mail and First Class U.S. mail)